

MONTANA LEGISLATIVE HISTORY

BEST COPY
AVAILABLEChapter 580 19 81Bill H _____ S 240Original bill & history ✓ cH. Committee on JudiciaryHearing Date(s) Mar 20 ✓ c

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Date Out _____ c

No minutes were
found re: action
takenS. Committee on JudiciaryHearing Date(s) Feb 05 ✓ cFeb 20 ✓ c

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Feb 20 ✓ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

A Free Conference Committee
was appointed - its minutes
were not recorded.

S. Rules

Apr 08 ✓ c

Senate Bill 240

In The Senate

January 22, 1981	Introduced and referred to Committee on Judiciary.
February 21, 1981	Committee recommend bill do pass as amended.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading do pass as amended.
February 25, 1981	On motion rules suspended. Bill placed on calendar for third reading this day.
	Third reading passed.

In The House

March 2, 1981	Introduced and referred to Committee on Judiciary.
March 25, 1981	Committee recommend bill concurred as amended.
March 28, 1981	Second reading pass consideration.
March 30, 1981	Second reading concurred.

March 30, 1981

On motion rules suspended and bill allowed to be transmitted 71st legislative day. Motion adopted.

March 31, 1981

Third reading, concurred in as amended. Ayes, 96; Noes, 0.

IN THE SENATE

April 1, 1981

Returned from House with amendments.

April 3, 1981

Second reading, amendments not concurred in.

April 4, 1981

On motion taken from Committee on Bills and Journal and rereferred to Committee on Rules. Motion adopted.

April 9, 1981

On motion Free Conference Committee requested and appointed.

April 22, 1981

Free Conference Committee reported.

April 23, 1981

Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted. Ayes, 47; Noes, 2. Transmitted to House.

IN THE HOUSE

April 23, 1981

Free Conference Committee report adopted.

IN THE SENATE

April 23, 1981

Returned from House. Sent to enrolling.

Reported correctly enrolled.

March 30, 1981

On motion rules suspended and bill allowed to be transmitted 71st legislative day. Motion adopted.

March 31, 1981

Third reading, concurred in as amended. Ayes, 96; Noes, 0.

IN THE SENATE

April 1, 1981

Returned from House with amendments.

April 3, 1981

Second reading, amendments not concurred in.

April 4, 1981

On motion taken from Committee on Bills and Journal and rereferred to Committee on Rules. Motion adopted.

April 9, 1981

On motion Free Conference Committee requested and appointed.

April 22, 1981

Free Conference Committee reported.

April 23, 1981

Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted. Ayes, 47; Noes, 2. Transmitted to House.

IN THE HOUSE

April 23, 1981

Free Conference Committee report adopted.

IN THE SENATE

April 23, 1981

Returned from House. Sent to enrolling.

Reported correctly enrolled.

1 *Sen. Bill No. 240*
2 INTRODUCED BY *Paul H.*
3 BY REQUEST OF THE MONTANA DEPARTMENT OF INSURANCE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH STANDARDS
6 FOR THE COLLECTION, USE, AND DISCLOSURE OF INFORMATION
7 GATHERED IN CONNECTION WITH INSURANCE TRANSACTIONS BY
8 INSURANCE INSTITUTIONS, AGENTS, OR INSURANCE-SUPPORT
9 ORGANIZATIONS; TO PROVIDE A PROCEDURE FOR ACCESS BY PRIVATE
10 PERSONS TO INFORMATION GATHERED ABOUT THEM FOR THE PURPOSE
11 OF VERIFYING OR DISPUTING ITS ACCURACY; TO LIMIT THE
12 DISCLOSURE OF INFORMATION COLLECTED IN CONNECTION WITH
13 INSURANCE TRANSACTIONS; TO GIVE THE COMMISSIONER OF
14 INSURANCE THE POWER TO INVESTIGATE AND ISSUE CEASE AND
15 DESIST ORDERS FOR VIOLATIONS OF THIS ACT; TO PROVIDE FOR
16 EQUITABLE RELIEF IN THE DISTRICT COURT AND FOR A PENALTY;
17 REPEALING SECTIONS 50-16-301 THROUGH 50-16-305 AND 50-16-311
18 THROUGH 50-16-314, MCA."
19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
21 Section 1. Short title. [This act] may be cited as the
22 "Insurance Information and Privacy Protection Act".
23 Section 2. Purpose. The purpose of [this act] is to
24 establish standards for the collection, use, and disclosure
25 of information gathered in connection with insurance

1 transactions by insurance institutions, agents, or
2 insurance-support organizations; to maintain a balance
3 between the need for information by those conducting the
4 business of insurance and the public's need for fairness in
5 insurance information practices, including the need to
6 minimize intrusiveness; to establish a regulatory mechanism
7 to enable natural persons to ascertain what information is
8 being or has been collected about them in connection with
9 insurance transactions and to have access to such
10 information for the purpose of verifying or disputing its
11 accuracy; to limit the disclosure of information collected
12 in connection with insurance transactions; and to enable
13 insurance applicants and policyholders to obtain the reasons
14 for any adverse underwriting decision.
15 Section 3. Scope of [act]. (1) The obligations imposed
16 by [this act] apply to those insurance institutions, agents,
17 or insurance-support organizations that, on or after [the
18 effective date of this act]:
19 (a) in the case of life, health, or disability
20 insurance:
21 (i) collect, receive, or maintain information in
22 connection with insurance transactions that pertains to
23 natural persons who are residents of this state; or
24 (ii) engage in insurance transactions with applicants,
25 individuals, or policyholders who are residents of this

1 state; and

2 (b) in the case of property or casualty insurance:

3 (i) collect, receive, or maintain information in
4 connection with insurance transactions involving policies,
5 contracts, or certificates of insurance delivered, issued
6 for delivery, or renewed in this state; or

7 (ii) engage in insurance transactions involving
8 policies, contracts, or certificates of insurance delivered,
9 issued for delivery, or renewed in this state.

10 (2) The rights granted by [this act] extend to:

11 (a) in the case of life, health, or disability
12 insurance, the following persons who are residents of this
13 state:

14 (i) natural persons who are the subject of information
15 collected, received, or maintained in connection with
16 insurance transactions; and

17 (ii) applicants, individuals, or policyholders who
18 engage in or seek to engage in insurance transactions; and

19 (b) in the case of property or casualty insurance, the
20 following persons:

21 (i) natural persons who are the subject of information
22 collected, received, or maintained in connection with
23 insurance transactions involving policies, contracts, or
24 certificates of insurance delivered, issued for delivery, or
25 renewed in this state; and

1 (ii) applicants, individuals, or policyholders who
2 engage in or seek to engage in insurance transactions
3 involving policies, contracts, or certificates of insurance
4 delivered, issued for delivery, or renewed in this state.

5 (3) For the purposes of this section, a person is
6 considered a resident of this state if the person's last
7 known mailing address, as shown in the records of the
8 insurance institution, agent, or insurance-support
9 organization, is located in this state.

10 (4) [This act] does not apply to information collected
11 from the public records of a governmental authority and
12 maintained by an insurance institution or its
13 representatives for the purpose of insuring the title to
14 real property located in this state.

15 Section 4. Definitions. As used in [this act], the
16 following definitions apply:

17 (1) (a) "Adverse underwriting decision" means:

18 (i) any of the following actions with respect to
19 insurance transactions involving insurance coverage that are
20 individually underwritten:

21 (A) a declination of insurance coverage;

22 (B) a termination of insurance coverage;

23 (C) failure of an agent to apply for insurance coverage
24 with a specific insurance institution which the agent
25 represents and which is requested by an applicant;

1 (D) in the case of a property or casualty insurance
2 coverage:

3 (I) placement by an insurance institution or agent of a
4 risk with a residual market mechanism, an unauthorized
5 insurer, or an insurance institution which specializes in
6 substandard risks; or

7 (II) the charging of a higher rate on the basis of
8 information that differs from that which the applicant or
9 policyholder furnished;

10 (E) in the case of a life, health, or disability
11 insurance coverage, an offer to insure at higher than
12 standard rates.

13 (b) The following actions are not adverse underwriting
14 decisions but the insurance institution or agent responsible
15 for their occurrence shall nevertheless provide the
16 applicant or policyholder with the specific reason or
17 reasons for their occurrence:

18 (i) the termination of an individual policy form on a
19 class or statewide basis; or

20 (ii) a declination of insurance coverage solely because
21 such coverage is not available on a class or statewide
22 basis; or

23 (iii) the rescission of a policy.

24 (2) "Affiliate" or "affiliated" means a person that
25 directly or indirectly through one or more intermediaries

1 controls, is controlled by, or is under common control with
2 another person.

3 (3) "Agent" means an agent or enrollment representative
4 as defined in 33-17-102 and 33-30-311.

5 (4) "Applicant" means a person who seeks to contract
6 for insurance coverage other than a person seeking group
7 insurance that is not individually underwritten.

8 (5) "Consumer report" means any written, oral, or other
9 communication of information bearing on a natural person's
10 credit worthiness, credit standing, credit capacity,
11 character, general reputation, personal characteristics, or
12 mode of living which is used or expected to be used in
13 connection with an insurance transaction.

14 (6) "Consumer reporting agency" means any person who:

15 (a) regularly engages, in whole or in part, in the
16 practice of assembling or preparing consumer reports for a
17 monetary fee;

18 (b) obtains information primarily from sources other
19 than insurance institutions; and

20 (c) furnishes consumer reports to other persons.

21 (7) "Control", including the terms "controlled by" or
22 "under common control with", means the possession, direct or
23 indirect, of the power to direct or cause the direction of
24 the management and policies of a person, whether through the
25 ownership of voting securities, by contract other than a

1 commercial contract for goods or nonmanagement services, or
2 otherwise, unless the power is the result of an official
3 position with or corporate office held by the person.

4 (8) "Declination of insurance coverage" means a denial,
5 in whole or in part, by an insurance institution or agent of
6 requested insurance coverage.

7 (9) "Individual" means a natural person who:

8 (a) regarding property or casualty insurance, is a
9 past, present, or proposed named insured or
10 certificateholder;

11 (b) regarding life, health, or disability insurance, is
12 a past, present, or proposed principal insured or
13 certificateholder;

14 (c) is a past, present, or proposed policyowner;

15 (d) is a past or present applicant;

16 (e) is a past or present claimant; or

17 (f) derived, derives, or is proposed to derive
18 insurance coverage under an insurance policy or certificate
19 subject to [this act].

20 (10) "Institutional source" means a person or
21 governmental entity that provides information about an
22 individual to an agent, insurance institution, or
23 insurance-support organization, other than:

24 (a) an agent;

25 (b) the individual who is the subject of the

1 information; or

2 (c) a natural person acting in a personal capacity
3 rather than a business or professional capacity.

4 (11) "Insurance institution" means a corporation,
5 association, partnership, reciprocal exchange, interinsurer,
6 Lloyd's insurer, fraternal benefit society, or other person
7 engaged in the business of insurance, including health
8 maintenance organizations, and health service corporations
9 as defined in 33-30-101. "Insurance institution" does not
10 include agents or insurance-support organizations.

11 (12) (a) "Insurance-support organization" means a
12 person who regularly engages, in whole or in part, in the
13 practice of assembling or collecting information about
14 natural persons for the primary purpose of providing the
15 information to an insurance institution or agent for
16 insurance transactions, including:

17 (i) the furnishing of consumer reports or investigative
18 consumer reports to an insurance institution or agent for
19 use in connection with an insurance transaction; or

20 (ii) the collection of personal information from
21 insurance institutions, agents, or other insurance-support
22 organizations for the purpose of detecting or preventing
23 fraud, material misrepresentation, or material nondisclosure
24 in connection with insurance underwriting or insurance claim
25 activity.

(b) The following persons are not insurance-support organizations for purposes of [this act]: agents, government institutions, insurance institutions, medical care institutions and medical professionals.

(13) "Insurance transaction" means a transaction involving insurance primarily for personal, family, or household needs, rather than business or professional needs, that entails:

(a) the determination of an individual's eligibility for an insurance coverage, benefit, or payment; or

(b) the servicing of an insurance application, policy, contract, or certificate.

(14) "Investigative consumer report" means a consumer report or portion thereof containing information about a natural person's character, general reputation, personal characteristics, or mode of living obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning such items of information.

(15) "Medical care institution" means a facility or institution that is licensed to provide health care services to natural persons, including but not limited to health-maintenance organizations, home health agencies, hospitals, medical clinics, public health agencies, rehabilitation agencies, and skilled nursing facilities.

(16) "Medical professional" means a person licensed or certified to provide health care services to natural persons, including but not limited to a chiropractor, clinical dietitian, clinical psychologist, dentist, nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, psychiatric social worker or speech therapist.

(17) "Medical record information" means personal information that:

(a) relates to an individual's physical or mental condition, medical history, or medical treatment; and

(b) is obtained from a medical professional or medical care institution, from the individual, or from the individual's spouse, parent, or legal guardian.

(18) "Person" means a natural person, corporation, association, partnership, or other legal entity.

(19) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. Personal information includes an individual's name and address and medical record information but does not include privileged information.

(20) "Policyholder" means a person who:

1 (a) in the case of individual property or casualty
2 insurance, is a present named insured;

3 (b) in the case of individual life, health, or
4 disability insurance, is a present policyowner; or

5 (c) in the case of group insurance that is individually
6 underwritten, is a present group certificateholder.

7 (21) "Pretext interview" means an interview during which
8 a person, in an attempt to obtain information about a
9 natural person, performs one or more of the following acts:

10 (a) pretends to be someone he is not;

11 (b) pretends to represent a person he is not in fact
12 representing;

13 (c) misrepresents the true purpose of the interview; or

14 (d) refuses to identify himself upon request.

15 (22) "Privileged information" means any individually
16 identifiable information that:

17 (a) relates to a claim for insurance benefits or a
18 civil or criminal proceeding involving an individual; and

19 (b) is collected in connection with or in reasonable
20 anticipation of a claim for insurance benefits or civil or
21 criminal proceeding involving an individual. Information
22 otherwise meeting the requirements of privileged information
23 under this subsection will be considered "personal
24 information" under [this act] if it is disclosed in
25 violation of [section 15].

1 (23) "Residual market mechanism" means an association,
2 organization, or other entity defined or described in
3 33-8-103 and 61-6-144.

4 (24) "Termination of insurance coverage" or "termination
5 of an insurance policy" means either a cancellation or
6 nonrenewal of an insurance policy, in whole or in part, for
7 any reason other than the failure to pay a premium as
8 required by the policy.

9 (25) "Unauthorized insurer" means an insurance
10 institution that has not been granted a certificate of
11 authority by the commissioner to transact the business of
12 insurance in this state.

13 Section 5. Pretext interviews prohibited -- exception.

14 (1) Except as provided in subsection (2), an insurance
15 institution, agent or insurance-support organization may not
16 use or authorize the use of pretext interviews to obtain
17 information in connection with an insurance transaction.

18 (2) A pretext interview may be undertaken to obtain
19 information from a person or institution that does not have
20 a generally or statutorily recognized privileged
21 relationship with the person about whom the information
22 relates for the purpose of investigating a claim when based
23 upon specific information available for review by the
24 commissioner that there is a reasonable basis for suspecting
25 criminal activity, fraud, material misrepresentation, or

1 material nondisclosure in connection with the claim.

2 Section 6. Notice of insurance information practices.

3 (1) An insurance institution or agent shall provide a notice
4 of information practices to all applicants or policyholders
5 in connection with insurance transactions as provided below:

6 (a) in the case of an application for insurance, a
7 notice shall be provided no later than:

8 (i) at the time of the delivery of the insurance policy
9 or certificate when personal information is collected only
10 from the applicant or from public records; or

11 (ii) at the time the collection of personal information
12 is initiated when personal information is collected from a
13 source other than the applicant or public records;

14 (b) in the case of a policy renewal, a notice shall be
15 provided no later than the policy renewal date, except that
16 no notice is required in connection with a policy renewal
17 if:

18 (i) personal information is collected only from the
19 policyholder or from public records; or

20 (ii) a notice meeting the requirements of this section
21 has been given within the previous 24 months; or

22 (c) in the case of a policy reinstatement or change in
23 insurance benefits, a notice shall be provided no later than
24 the time a request for a policy reinstatement or change in
25 insurance benefits is received by the insurance institution,

1 except that no notice is required if personal information is
2 collected only from the policyholder or from public records.

3 (2) The notice must be in writing and must state:

4 (a) whether personal information may be collected from
5 persons other than the individual or individuals proposed
6 for coverage;

7 (b) the types of personal information that may be
8 collected and the types of sources and investigative
9 techniques that may be used to collect such information;

10 (c) the types of disclosures identified in subsections
11 (3), (4), (5), (6), (7), (10), (12), (13), and (15) of
12 [section 15] and the circumstances under which such
13 disclosures may be made without prior authorization.
14 However, only those circumstances that occur with such
15 frequency as to indicate a general business practice must be
16 described.

17 (d) a description of the rights established under
18 [sections 10 and 11] and the manner in which those rights
19 may be exercised; and

20 (e) that information obtained from a report prepared by
21 an insurance-support organization may be retained by the
22 insurance-support organization and disclosed to other
23 persons.

24 (3) In lieu of the notice prescribed in subsection (2),
25 the insurance institution or agent may provide an

1 abbreviated notice informing the applicant or policyholder
2 that:

3 (a) personal information may be collected from persons
4 other than the individual or individuals proposed for
5 coverage;

6 (b) such information as well as other personal or
7 privileged information subsequently collected by the
8 insurance institution or agent may in certain circumstances
9 be disclosed to third parties without authorization;

10 (c) a right of access and correction exists with
11 respect to all personal information collected; and

12 (d) the notice prescribed in subsection (2) must be
13 furnished to the applicant or policyholder upon request.

14 (4) The obligations imposed by this section upon an
15 insurance institution or agent may be satisfied by another
16 insurance institution or agent authorized to act on its
17 behalf.

18 Section 7. Marketing and research surveys. An insurance
19 institution or agent shall clearly specify the questions
20 that are designed to obtain information, from an individual
21 in connection with an insurance transaction, solely for
22 marketing or research purposes.

23 Section 8. Content and disclosure of authorization
24 forms. Notwithstanding any other provision of law of this
25 state, an insurance institution, agent, or insurance-support

1 organization may not utilize as its disclosure authorization
2 form in connection with insurance transactions a form or
3 statement that authorizes the disclosure of personal or
4 privileged information about an individual to the insurance
5 institution, agent, or insurance-support organization unless
6 the form or statement:

7 (1) is written in plain language;

8 (2) is dated;

9 (3) specifies the types of persons authorized to
10 disclose information about the individual;

11 (4) specifies the nature of the information authorized
12 to be disclosed;

13 (5) names the insurance institution or agent and
14 identifies by generic reference representatives of the
15 insurance institution to whom the individual is authorizing
16 information to be disclosed;

17 (6) specifies the purposes for which the information is
18 collected;

19 (7) specifies the length of time such authorization
20 remains valid, which may be no longer than:

21 (a) in the case of authorizations signed for the
22 purpose of collecting information in connection with an
23 application for an insurance policy, a policy reinstatement,
24 or a request for change in policy benefits:

25 (i) 30 months from the date the authorization is signed

1 if the application or request involves life, health, or
2 disability insurance;

3 (ii) one year from the date the authorization is signed
4 if the application or request involves property or casualty
5 insurance;

6 (b) in the case of authorizations signed for the
7 purpose of collecting information in connection with a claim
8 for benefits under an insurance policy:

9 (i) the term of coverage of the policy if the claim is
10 for a health insurance benefit;

11 (ii) the duration of the claim if the claim is not for
12 a health insurance benefit; and

13 (8) advises the individual or a person authorized to
14 act on behalf of the individual that the individual or the
15 individual's authorized representative is entitled to
16 receive a copy of the authorization form.

17 Section 9. Investigative consumer reports. (1) An
18 insurance institution, agent, or insurance-support
19 organization may not prepare or request an investigative
20 consumer report about an individual in connection with an
21 insurance transaction involving an application for
22 insurance, a policy renewal, a policy reinstatement, or a
23 change in insurance benefits unless the insurance
24 institution or agent informs the individual:

25 (a) that he may request to be interviewed in connection

1 with the preparation of the investigative consumer report;
2 and

3 (b) that upon a request pursuant to [section 10], he is
4 entitled to receive a copy of the investigative consumer
5 report.

6 (2) If an investigative consumer report is to be
7 prepared by an insurance institution or agent, the insurance
8 institution or agent shall institute reasonable procedures
9 to conduct a personal interview requested by an individual.

10 (3) If an investigative consumer report is to be
11 prepared by an insurance-support organization, the insurance
12 institution or agent desiring such report shall inform the
13 insurance-support organization whether a personal interview
14 has been requested by the individual. The insurance-support
15 organization shall institute reasonable procedures to
16 conduct such interview, if requested.

17 Section 10. Access to recorded personal information.
18 (1) If an individual, after proper identification, submits a
19 written request to an insurance institution, agent, or
20 insurance-support organization for access to recorded
21 personal information about the individual that is reasonably
22 described by the individual and reasonably locatable and
23 retrievable by the insurance institution, agent, or
24 insurance-support organization, the insurance institution,
25 agent, or insurance-support organization shall, within 30

1 business days from the date such request is received:

2 (a) inform the individual of the nature and substance
3 of the recorded personal information in writing, by
4 telephone, or by other oral communication, whichever the
5 insurance institution, agent, or insurance-support
6 organization prefers;

7 (b) permit the individual to see and copy, in person,
8 the recorded personal information pertaining to him or to
9 obtain a copy of the recorded personal information by mail,
10 whichever the individual prefers. If the recorded personal
11 information is in coded form an accurate translation in
12 plain language must be provided in writing.

13 (c) disclose to the individual the identity, if
14 recorded, of those persons to whom the insurance
15 institution, agent, or insurance-support organization has
16 disclosed the personal information within 2 years prior to
17 the request and if the identity is not recorded, the names
18 of those insurance institutions, agents, insurance-support
19 organizations, or other persons to whom such information is
20 normally disclosed; and

21 (d) provide the individual with a summary of the
22 procedures he may use to request correction, amendment, or
23 deletion of recorded personal information.

24 (2) Personal information provided pursuant to
25 subsection (1) must identify the source of the information

1 if such source is an institutional source.

2 (3) Medical record information supplied by a medical
3 care institution or medical professional and requested under
4 subsection (1), together with the identity of the medical
5 professional or medical care institution that provided the
6 information, shall be supplied either directly to the
7 individual or to a medical professional designated by the
8 individual and licensed to provide medical care with respect
9 to the condition to which the information relates, whichever
10 the insurance institution, agent, or insurance-support
11 organization prefers. If it elects to disclose the
12 information to a medical professional designated by the
13 individual, the insurance institution, agent, or
14 insurance-support organization shall notify the individual,
15 at the time of the disclosure, that it has provided the
16 information to the medical professional.

17 (4) Except for personal information provided under
18 [section 12], an insurance institution, agent, or
19 insurance-support organization may charge a reasonable fee
20 to cover the costs incurred in providing a copy of recorded
21 personal information to individuals.

22 (5) The obligations imposed by this section upon an
23 insurance institution or agent may be satisfied by another
24 insurance institution or agent authorized to act on its
25 behalf. With respect to the copying and disclosure of

1 recorded personal information pursuant to a request under
2 subsection (1), an insurance institution, agent, or
3 insurance-support organization may make arrangements with an
4 insurance-support organization or a consumer reporting
5 agency to copy and disclose recorded personal information on
6 its behalf.

7 (6) The rights granted to individuals in this section
8 extend to all natural persons to the extent information
9 about them is collected and maintained by an insurance
10 institution, agent, or insurance-support organization in
11 connection with an insurance transaction. The rights granted
12 to all natural persons by this subsection do not extend to
13 information about them that relates to and is collected in
14 connection with or in reasonable anticipation of a claim or
15 civil or criminal proceeding involving them.

16 (7) For the purposes of this section, the term
17 "insurance-support organization" does not include "consumer
18 reporting agency" except to the extent this section imposes
19 more stringent requirements on a consumer reporting agency
20 than other state or federal law.

21 Section 11. Correction, amendment, or deletion of
22 recorded personal information. (1) Within 30 business days
23 from the date of receipt of a written request from an
24 individual to correct, amend, or delete any recorded
25 personal information in its possession about the individual,

1 an insurance institution, agent, or insurance-support
2 organization shall either:

3 (a) correct, amend, or delete the portion of the
4 recorded personal information in dispute; or

5 (b) notify the individual of:

6 (i) its refusal to make such correction, amendment, or
7 deletion;

8 (ii) the reasons for the refusal; and

9 (iii) the individual's right to file a statement as
10 provided in subsection (3).

11 (2) If the insurance institution, agent, or
12 insurance-support organization corrects, amends, or deletes
13 recorded personal information in accordance with subsection
14 (1)(a), the insurance institution, agent, or
15 insurance-support organization shall so notify the
16 individual in writing and furnish the correction, amendment,
17 or fact of deletion to:

18 (a) any person specifically designated by the
19 individual who may have, within the preceding 2 years,
20 received such recorded personal information;

21 (b) any insurance-support organization whose primary
22 source of personal information is insurance institutions if
23 the insurance-support organization has systematically
24 received such recorded personal information from the
25 insurance institution within the preceding 7 years, but the

1 correction, amendment, or fact of deletion need not be
2 furnished if the insurance-support organization no longer
3 maintains recorded personal information about the
4 individual; and

5 (c) any insurance-support organization that furnished
6 the personal information which has been corrected, amended,
7 or deleted.

8 (3) Whenever an individual disagrees with an insurance
9 institution's, agent's, or insurance-support organization's
10 refusal to correct, amend, or delete recorded personal
11 information, the individual may file with the insurance
12 institution, agent, or insurance-support organization:

13 (a) a concise statement setting forth what the
14 individual thinks is the correct, relevant, or fair
15 information; and

16 (b) a concise statement of the reasons why the
17 individual disagrees with the insurance institution's,
18 agent's, or insurance-support organization's refusal to
19 correct, amend, or delete recorded personal information.

20 (4) If an individual files either statement described
21 in subsection (3), the insurance institution, agent, or
22 insurance-support organization shall:

23 (a) file the statement with the disputed personal
24 information and provide a means by which anyone reviewing
25 the disputed personal information will be made aware of

1 individual's statement and have access to it;

2 (b) in any subsequent disclosure by the insurance
3 institution, agent, or insurance-support organization of the
4 recorded personal information that is the subject of
5 disagreement, clearly identify the matter in dispute and
6 provide the individual's statement along with the recorded
7 personal information being disclosed; and

8 (c) furnish the statement to the persons in the manner
9 specified in subsection (2).

10 (5) The rights granted individuals by this section
11 extend to all natural persons to the extent information
12 about them is collected and maintained by an insurance
13 institution, agent, or insurance-support organization in
14 connection with an insurance transaction. The rights granted
15 to natural persons by this subsection do not extend to
16 information about them that relates to and is collected in
17 connection with or in reasonable anticipation of a claim or
18 civil or criminal proceeding involving them.

19 (6) For the purposes of this section, the term
20 "insurance-support organization" does not include "consumer
21 reporting agency" to the extent this section imposes more
22 stringent requirements on a consumer reporting agency than
23 other state or federal law.

24 Section 12. Reasons for adverse underwriting decisions.

25 (1) If an adverse underwriting decision is made, the

1 insurance institution or agent responsible for the decision
2 shall:

3 (a) either provide the applicant, policyholder, or
4 individual proposed for coverage with the specific reason or
5 reasons for the adverse underwriting decision in writing or
6 advise such person that upon written request he may receive
7 the specific reason or reasons in writing; and

8 (b) provide the applicant, policyholder, or individual
9 proposed for coverage with a summary of the rights
10 established under subsection (2) and [sections 10 and 11].

11 (2) If a written request is received within 90 business
12 days from the date of the mailing of notice or other
13 communication of an adverse underwriting decision to an
14 applicant, policyholder, or individual proposed for
15 coverage, the insurance institution or agent shall within 21
16 business days from the date of receipt of the written
17 request furnish the person:

18 (a) the specific reason or reasons for the adverse
19 underwriting decision, in writing, if such information was
20 not initially furnished in writing pursuant to subsection
21 (1)(a);

22 (b) the specific items of personal and privileged
23 information that support those reasons; however:

24 (i) the insurance institution or agent is not required
25 to furnish specific items of privileged information if it

1 has a reasonable suspicion, based upon specific information
2 available for review by the commissioner, that the
3 applicant, policyholder, or individual proposed for coverage
4 has engaged in criminal activity, fraud, material
5 misrepresentation, or material nondisclosure; and

6 (ii) specific items of medical record information
7 supplied by a medical care institution or medical
8 professional shall be disclosed either directly to the
9 individual about whom the information relates or to a
10 medical professional designated by the individual and
11 licensed to provide medical care with respect to the
12 condition to which the information relates, whichever the
13 insurance institution or agent prefers; and

14 (c) the names and addresses of the institutional
15 sources that supplied the specific items of information
16 pursuant to subsection (2)(b), except that the identity of
17 any medical professional or medical care institution must be
18 disclosed either directly to the individual or to the
19 designated medical professional, whichever the insurance
20 institution or agent prefers.

21 (3) The obligations imposed by this section upon an
22 insurance institution or agent may be satisfied by another
23 insurance institution or agent authorized to act on its
24 behalf.

25 (4) When an adverse underwriting decision results

1 solely from an oral request or inquiry, the explanation of
2 reasons and summary of rights required by subsection (1) may
3 be given orally.

4 Section 13. Information concerning previous adverse
5 underwriting decisions. An insurance institution, agent, or
6 insurance-support organization may not seek information in
7 connection with an insurance transaction concerning:

8 (1) any previous adverse underwriting decision
9 experienced by an individual; or

10 (2) any previous insurance coverage obtained by an
11 individual through a residual market mechanism unless the
12 inquiry also requests the reasons for any previous adverse
13 underwriting decision or the reasons why insurance coverage
14 was previously obtained through a residual market mechanism.

15 Section 14. Previous adverse underwriting decisions. An
16 insurance institution or agent may not base an adverse
17 underwriting decision in whole or in part:

18 (1) on the fact of a previous adverse underwriting
19 decision or on the fact that an individual previously
20 obtained insurance coverage through a residual market
21 mechanism, but an insurance institution or agent may base an
22 adverse underwriting decision on further information
23 obtained from an insurance institution or agent responsible
24 for a previous adverse underwriting decision;

25 (2) on personal information received from an

1 insurance-support organization whose primary source of
2 information is insurance institutions, but an insurance
3 institution or agent may base an adverse underwriting
4 decision on further personal information obtained as the
5 result of information received from such insurance-support
6 organization.

7 Section 15. Disclosure limitations and conditions. (1)
8 Except as provided in this section, an insurance
9 institution, agent, or insurance-support organization may
10 not disclose any personal or privileged information about an
11 individual collected or received in connection with an
12 insurance transaction.

13 (2) Disclosure may be made with the written
14 authorization of the individual but:

15 (a) if the authorization is submitted by another
16 insurance institution, agent, or insurance-support
17 organization, the authorization must meet the requirements
18 of [section 3]; or

19 (b) if the authorization is submitted by a person
20 other than an insurance institution, agent, or
21 insurance-support organization, the authorization must be:

22 (i) dated;

23 (ii) signed by the individual; and

24 (iii) obtained 1 year or less prior to the date a
25 disclosure is sought pursuant to this subsection.

1 (3) Disclosure may be made to a person other than an
2 insurance institution, agent, or insurance-support
3 organization, provided such disclosure is reasonably
4 necessary:

5 (a) to enable such person to perform a business,
6 professional, or insurance function for the disclosing
7 insurance institution, agent, or insurance-support
8 organization and such person agrees not to disclose the
9 information further without the individual's written
10 authorization unless the further disclosure:

11 (i) would otherwise be permitted by this section if
12 made by an insurance institution, agent, or
13 insurance-support organization; or

14 (ii) is reasonably necessary for such person to perform
15 its function for the disclosing insurance institution,
16 agent, or insurance-support organization; or

17 (b) to enable such person to provide information to the
18 disclosing insurance institution, agent, or
19 insurance-support organization for the purpose of:

20 (i) determining an individual's eligibility for an
21 insurance benefit or payment; or

22 (ii) detecting or preventing criminal activity, fraud,
23 material misrepresentation, or material nondisclosure in
24 connection with an insurance transaction.

25 (4) Disclosure may be made to an insurance institution,

1 agent, insurance-support organization, or self-insurer if
2 the information disclosed is limited to that which is
3 reasonably necessary:

4 (a) to detect or prevent criminal activity, fraud,
5 material misrepresentation, or material nondisclosure in
6 connection with insurance transactions; or

7 (b) for either the disclosing or receiving insurance
8 institution, agent, or insurance-support organization to
9 perform its function in connection with an insurance
10 transaction involving the individual.

11 (5) Disclosure may be made to a medical care
12 institution or medical professional of that information
13 reasonably necessary for the following purposes:

14 (a) verifying insurance coverage or benefits;

15 (b) informing an individual of a medical problem of
16 which the individual may not be aware; or

17 (c) conducting an operations or services audit.

18 (6) Disclosure may be made to an insurance regulatory
19 authority.

20 (7) Disclosure may be made to a law enforcement or
21 other government authority:

22 (a) to protect the interests of the insurance
23 institution, agent, or insurance-support organization in
24 preventing or prosecuting the perpetration of fraud upon it;
25 or

1 (b) if the insurance institution, agent, or
2 insurance-support organization reasonably believes that
3 illegal activities have been conducted by the individual.

4 (8) Disclosure may be made as otherwise permitted or
5 required by law.

6 (9) Disclosure may be made in response to a facially
7 valid administrative or judicial order, including a search
8 warrant or subpoena.

9 (10) Disclosure may be made for the purpose of
10 conducting actuarial or research studies, provided:

11 (a) no individual may be identified in any actuarial or
12 research report;

13 (b) materials allowing the individual to be identified
14 are returned or destroyed as soon as they are no longer
15 needed; and

16 (c) the actuarial or research organization agrees not
17 to disclose the information unless the disclosure would
18 otherwise be permitted by this section if made by an
19 insurance institution, agent, or insurance-support
20 organization.

21 (11) Disclosure may be made to a party or a
22 representative of a party to a proposed or consummated sale,
23 transfer, merger, or consolidation of all or part of the
24 business of the insurance institution, agent, or
25 insurance-support organization, if:

1 (a) prior to the consummation of the sale, transfer,
2 merger, or consolidation only such information is disclosed
3 as is reasonably necessary to enable the recipient to make
4 business decisions about the purchase, transfer, merger, or
5 consolidation; and

6 (b) the recipient agrees not to disclose the
7 information unless the disclosure would otherwise be
8 permitted by this section if made by an insurance
9 institution, agent, or insurance-support organization.

10 (12) Disclosure may be made to a person whose only use
11 of such information will be in connection with the marketing
12 of a product or service, if:

13 (a) no medical record information, privileged
14 information, or personal information relating to an
15 individual's character, personal habits, mode of living, or
16 general reputation is disclosed, and no classification
17 derived from such information is disclosed;

18 (b) the individual has been given an opportunity to
19 indicate that he does not want personal information
20 disclosed for marketing purposes and has given no indication
21 that he does not want the information disclosed; and

22 (c) the person receiving the information agrees not to
23 use it except in connection with the marketing of a product
24 or service.

25 (13) Disclosure may be made to an affiliate whose only

1 use of the information will be in connection with an audit
2 of the insurance institution or agent or the marketing of
3 an insurance product or service if the affiliate agrees not
4 to disclose the information for any other purpose or to
5 unaffiliated persons.

6 (14) Disclosure may be made by a consumer reporting
7 agency to a person other than an insurance institution or
8 agent.

9 (15) Disclosure may be made to a group policyholder for
10 the purpose of reporting claims experience or conducting an
11 audit of the insurance institution's or agent's operations
12 or services if the information disclosed is reasonably
13 necessary for the group policyholder to conduct the review
14 or audit.

15 (16) Disclosure may be made to a professional peer
16 review organization for the purpose of reviewing the service
17 or conduct of a medical care institution or medical
18 professional.

19 (17) Disclosure may be made to a governmental authority
20 for the purpose of determining the individual's eligibility
21 for health benefits for which the governmental authority may
22 be liable.

23 (18) Disclosure may be made to a certificateholder or
24 policyholder for the purpose of providing information
25 regarding the status of an insurance transaction.

1 Section 16. Power of the commissioner. (1) The
2 commissioner has the power to examine and investigate the
3 affairs of every insurance institution or agent doing
4 business in this state to determine whether the insurance
5 institution or agent has been or is engaged in any conduct
6 in violation of [this act].

7 (2) The commissioner has the power to examine and
8 investigate the affairs of every insurance-support
9 organization acting on behalf of an insurance institution or
10 agent that either transacts business in this state or
11 transacts business outside this state which has an effect on
12 a person residing in this state in order to determine
13 whether such insurance-support organization has been or is
14 engaged in any conduct in violation of [this act].

15 Section 17. Hearings, witnesses, appearances,
16 production of books, and service of process. (1) The
17 commissioner shall hold a hearing whenever he has reason to
18 believe that an insurance institution, agent, or
19 insurance-support organization has been or is engaged in
20 conduct in this state that violates [this act] or if the
21 commissioner believes that an insurance-support organization
22 has been or is engaged in conduct outside this state which
23 has an effect on a person residing in this state and which
24 violates [this act]. The commissioner shall issue and serve
25 upon such insurance institution, agent, or insurance-support

1 organization a statement of charges and notice of hearing
2 specifying a time and place for the hearing. The date for
3 the hearing may not be less than 20 days after the date of
4 service.

5 (2) At the hearing the insurance institution, agent, or
6 insurance-support organization charged has the opportunity
7 to answer the charges against it and present evidence on its
8 behalf. Upon good cause shown, the commissioner may permit
9 any adversely affected person, by counsel or in person, to
10 intervene, appear, and be heard at the hearing.

11 (3) At a hearing conducted pursuant to this section,
12 the commissioner may administer oaths, examine and
13 cross-examine witnesses, and receive oral and documentary
14 evidence. The commissioner has the power to subpoena
15 witnesses, compel their attendance, and require the
16 production of books, papers, records, correspondence, and
17 other documents that are relevant to the hearing. A
18 stenographic record of the hearing shall be made upon the
19 request of any party or at the discretion of the
20 commissioner. If no stenographic record is made and if
21 judicial review is sought, the commissioner shall prepare a
22 statement of the evidence for use on review. Hearings
23 conducted under this section are governed by the same rules
24 of evidence and procedure applicable to administrative
25 proceedings conducted under Title 2, chapter 4.

1 (4) Statements of charges, notices, orders, and other
2 processes of the commissioner under [this act] may be served
3 by anyone duly authorized to act on behalf of the
4 commissioner. Service of process may be completed in the
5 manner provided by law for service of process in civil
6 actions or by registered mail. A copy of the statement of
7 charges, notice, order, or other process shall be provided
8 to the person or persons whose rights under [this act] have
9 been allegedly violated. A verified return setting forth the
10 manner of service, or return postcard receipt in the case of
11 registered mail, is sufficient proof of service.

12 Section 18. Service of process -- insurance-support
13 organizations. For the purpose of [this act], an
14 insurance-support organization transacting business outside
15 this state that has an effect on a person residing in this
16 state is considered to have appointed the commissioner to
17 accept service of process on its behalf. The commissioner
18 shall mail a copy of the notice by registered mail to the
19 insurance-support organization at its last known principal
20 place of business. The return postcard receipt for such
21 mailing is sufficient proof that the same was properly
22 mailed by the commissioner.

23 Section 19. Cease and desist orders and reports. (1)
24 If, after a hearing pursuant to [section 17], the
25 commissioner determines that the insurance institution,

1 agent, or insurance-support organization charged has engaged
2 in conduct or practices in violation of [this act], the
3 commissioner shall reduce his findings to writing and shall
4 issue and cause to be served upon the insurance institution,
5 agent, or insurance-support organization a copy of the
6 findings and an order requiring the insurance institution,
7 agent, or insurance-support organization to cease and desist
8 from the conduct or practices constituting a violation of
9 [this act].

10 (2) If, after a hearing pursuant to [section 17], the
11 commissioner determines that the insurance institution,
12 agent, or insurance-support organization charged has not
13 engaged in conduct or practices in violation of [this act],
14 the commissioner shall prepare a written report which sets
15 forth findings of fact and conclusions of law. The report
16 shall be served upon the insurance institution, agent, or
17 insurance-support organization charged and upon the person
18 or persons if any, whose rights under [this act] were
19 allegedly violated.

20 (3) Until the expiration of the time allowed under
21 [section 21] for filing a petition for review or until such
22 a petition is filed, whichever occurs first, the
23 commissioner may modify or set aside any order or report
24 issued under this section. After the expiration of the time
25 allowed under [section 21] for filing a petition for review

1 or if no such petition has been filed, the commissioner may,
2 after notice and opportunity for hearing, alter, modify, or
3 set aside, in whole or in part, any order or report issued
4 under this section whenever conditions of fact or law
5 warrant such action or if the public interest so requires.

6 Section 20. Penalties. (1) If a hearing pursuant to
7 [section 17] results in the finding of a knowing violation
8 of [this act], the commissioner may, in addition to the
9 issuance of a cease and desist order as prescribed in
10 [section 19], order payment of a penalty of not more than
11 \$500 for each violation but not to exceed \$10,000 in the
12 aggregate for multiple violations.

13 (2) Any person who violates a cease and desist order of
14 the commissioner under [section 19] may, after notice and
15 hearing and upon order of the commissioner, be subject to
16 one or more of the following penalties, at the discretion of
17 the commissioner:

18 (a) a fine of not more than \$10,000 for each violation;
19 or

20 (b) a fine of not more than \$50,000 if the commissioner
21 finds that violations have occurred with such frequency as
22 to constitute a general business practice; and

23 (c) suspension or revocation of an insurance
24 institution's or agent's license.

25 Section 21. Judicial review of orders and reports. (1)

1 Any person subject to an order of the commissioner under
2 [section 19] or [section 20] or any person whose rights
3 under [this act] were allegedly violated may obtain a review
4 of any order or report of the commissioner by filing in the
5 district court of Lewis and Clark County, within 30 days
6 from the date of the service of such order or report, a
7 written petition requesting that the order or report of the
8 commissioner be set aside. A copy of the petition must at
9 the same time be served upon the commissioner, who shall
10 forthwith certify and file in the district court a
11 transcript of the entire record of the proceeding giving
12 rise to the order or report that is the subject of the
13 petition. Upon the filing of the petition and transcript,
14 the district court has jurisdiction to make and enter a
15 decree modifying, affirming, or reversing any order or
16 report of the commissioner, in whole or in part. The
17 findings of the commissioner as to the facts supporting any
18 order or report, if supported by clear and convincing
19 evidence, are conclusive.

20 (2) To the extent an order or report of the
21 commissioner is affirmed, the court shall issue its own
22 order commanding obedience to the terms of the order or
23 report of the commissioner. If any party affected by an
24 order or report of the commissioner applies to the court for
25 leave to produce additional evidence and shows to the

1 satisfaction of the court that such additional evidence is
2 material and that there are reasonable grounds for the
3 failure to produce such evidence in prior proceedings, the
4 court may order such additional evidence to be taken before
5 the commissioner in such manner and upon such terms and
6 conditions as the court may consider proper. The
7 commissioner may modify his findings of fact or make new
8 findings by reason of the additional evidence so taken and
9 shall file such modified or new findings along with any
10 recommendation, if any, for the modification or revocation
11 of a previous order or report. If supported by clear and
12 convincing evidence, the modified or new findings shall be
13 conclusive as to the matters contained therein.

14 (3) An order or report issued by the commissioner under
15 [sections 19 or 20] is final:

16 (a) upon the expiration of the time allowed for the
17 filing of a petition for review, if no such petition has
18 been duly filed; except that the commissioner may modify or
19 set aside an order or report to the extent provided in
20 [section 19(3)]; or

21 (b) upon a final decision of the district court if the
22 court directs that the order or report of the commissioner
23 be affirmed or the petition for review dismissed.

24 (4) No order or report of the commissioner under [this
25 act] or order of a court to enforce the same in any way

1 relieves or absolves any person affected by the order or
2 report from any liability under any other law of this state.

3 Section 22. Individual remedies. (1) If any insurance
4 institution, agent, or insurance-support organization fails
5 to comply with [sections 10, 11, or 12] with respect to the
6 rights granted under [those sections], any person whose
7 rights are violated may apply to the district court of this
8 state or any other court of competent jurisdiction for
9 appropriate equitable relief.

10 (2) An insurance institution, agent, or
11 insurance-support organization that discloses information in
12 violation of [section 15] is liable for damages sustained by
13 the individual to whom the information relates. However, an
14 individual is not entitled to a monetary award which exceeds
15 the actual damages sustained by the individual as a result
16 of a violation of [section 15].

17 (3) In any action brought pursuant to this section, the
18 court may award the cost of the action and reasonable
19 attorney's fees to the prevailing party.

20 (4) An action under this section must be brought within
21 2 years from the date the alleged violation is or should
22 have been discovered.

23 (5) Except as specifically provided in this section,
24 there is no remedy or recovery available to individuals, in
25 law or in equity, for occurrences constituting a violation

1 of any provision of [this act].

2 Section 23. Immunity. A cause of action or claim for
3 relief in the nature of defamation, invasion of privacy, or
4 negligence does not arise against any person for disclosing
5 personal or privileged information in accordance with [this
6 act], nor does such a cause of action or claim for relief
7 arise against any person for furnishing personal or
8 privileged information to an insurance institution, agent,
9 or insurance-support organization. However, this section
10 does not provide immunity for disclosing or furnishing false
11 information with malice or willful intent to injure any
12 person.

13 Section 24. Obtaining information under false
14 pretenses. Any person who knowingly and willfully obtains
15 information about an individual from an insurance
16 institution, agent, or insurance-support organization under
17 false pretenses shall be fined not more than \$10,000 or
18 imprisoned for not more than 1 year, or both.

19 Section 25. Codification instruction. This act is
20 intended to be codified as an integral part of Title 33, and
21 the provisions of Title 33 apply to this act.

22 Section 26. Severability. If a part of this act is
23 invalid, all valid parts that are severable from the invalid
24 part remain in effect. If a part of this act is invalid in
25 one or more of its applications, the part remains in effect

1 in all valid applications that are severable from the
2 invalid applications.

3 Section 27. Repealer. Sections 50-16-301 through
4 50-16-305 and 50-16-311 through 50-16-314, MCA, are
5 repealed.

6 Section 28. Effective date. (1) This act is effective
7 on July 1, 1982.

8 (2) The rights granted under [sections 10, 11, and 15]
9 are effective on July 1, 1982, regardless of the date of the
10 collection or receipt of the information that is the subject
11 of those sections.

-End-

ON MOTION, 4/15, CONFERENCE COMMITTEE DISSOLVED
FREE CONFERENCE COMMITTEE APPOINTED
FCC REPORT ADOPTED: 4/16
2ND READING: 4/17, BE CONCURRED IN
ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/17, YEAS: 50

HOUSE
ON MOTION, 4/15, CONFERENCE COMMITTEE DISSOLVED
FREE CONFERENCE COMMITTEE REQUESTED

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/16
2ND READING: 4/21, YEAS: 83; NAYS: 0
ON MOTION, 4/21, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/21, YEAS: 91; NAYS: 2

TRANSMITTED TO GOVERNOR: 4/23/81
ACTION: 4/29, SIGNED
CHAPTER 528

229 -- HAZELBAKER -- AUTHORIZING INSURANCE PREMIUM FINANCE
COMPANIES...

INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND
INDUSTRY: 1/22
HEARING: 2/6
REPORT: 2/9, DO PASS AS AMENDED
2ND READING: 2/11, DO PASS
3RD READING: 2/13, YEAS: 50

TRANSMITTED TO HOUSE: 2/13
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 2/14
HEARING: 3/9
REPORT: 3/12, BE CONCURRED IN, AS AMENDED
2ND READING: 3/20, YEAS: 66; NAYS: 11
SEGREGATED: 3/20
ON MOTION, 3/23, PASSED CONSIDERATION TO 64TH LEGISLATIVE
DAY.
2ND READING: 3/23, YEAS: 66; NAYS: 25
SEGREGATED: 3/23, PURPOSE OF AN AMENDMENT
2ND READING: 3/24, AS AMENDED -- YEAS: 71; NAYS: 12
3RD READING: 3/26, YEAS: 78; NAYS: 17

RETURNED TO SENATE WITH AMENDMENTS: 3/26
2ND READING: 4/2, BE CONCURRED IN
3RD READING: 4/4, YEAS: 47; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/10/81
ACTION: 4/14, SIGNED
CHAPTER 360

230 -- HAZELBAKER -- ESTABLISHING STANDARDS FOR COLLECTION, USE AND
DISCLOSURE OF INFORMATION GATHERED IN CONNECTION WITH INSURANCE
TRANS ACTIONS.

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY: 1/22
HEARING: 2/5
REPORT: 2/21, DO PASS AS AMENDED
2ND READING: 2/24, DO PASS AS AMENDED
3RD READING: 2/25, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 2/25

REFERRED TO COMMITTEE ON JUDICIARY: 3/2

HEARING: 3/20

REPORT: 3/24, BE CONCURRED IN, AS AMENDED

ON MOTION, 3/28, PASSED FOR THE DAY.

2ND READING: 3/30, YEAS: 90; NAYS: 1

3RD READING: 3/31, YEAS: 96; NAYS: 0

RETURNED TO SENATE WITH AMENDMENTS: 3/31

2ND READING: 4/3, BE NOT CONCURRED

ON MOTION, 4/4, REREFERRED TO COMMITTEE ON RULES

REPORT: 4/8, DO PASS

ON MOTION, 4/8, REFERRED TO FREE CONFERENCE COMMITTEE

ON MOTION, 4/9, FREE CONFERENCE COMMITTEE APPOINTED

HOUSE

ON MOTION, 4/13, FREE CONFERENCE COMMITTEE DISSOLVED

NEW FREE CONFERENCE COMMITTEE APPOINTED

ON MOTION, 4/14, NEW FREE CONFERENCE COMMITTEE DISSOLVED

NEW JOINT CONFERENCE COMMITTEE APPOINTED

ON MOTION, 4/21, CONFERENCE COMMITTEE DISSOLVED

NEW FREE CONFERENCE COMMITTEE APPOINTED

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/21

2ND READING: 4/23, YEAS: 85; NAYS: 1

ON MOTION, 4/23, RULES SUSPENDED, PLACED ON 3RD READING

3RD READING: 4/23, YEAS: 88; NAYS: 0

SENATE

ON MOTION, 4/14, FREE CONFERENCE COMMITTEE APPOINTED

FREE CONFERENCE COMMITTEE REPORT: 4/21

2ND READING: 4/23, BE CONCURRED IN

3RD READING: 4/23, YEAS: 47; NAYS: 2

TRANSMITTED TO GOVERNOR: 4/23/81

ACTION: 5/1, SIGNED

CHAPTER 580

SB 241 -- HAZELBAKER -- ESTABLISHING MINIMUM STANDARDS FOR MEDICAL
SUPPLEMENT INSURANCE. . .

INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH: 1/22

HEARING: 2/2

REPORT: 2/9, DO PASS -- STATEMENT OF INTENT ATTACHED

2ND READING: 2/11, DO PASS

3RD READING: 2/13, YEAS: 50

TRANSMITTED TO HOUSE: 2/13

REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 2/14

HEARING: 3/9

REPORT: 3/10, BE CONCURRED IN, AS AMENDED

2ND READING: 3/19, YEAS: 83; NAYS: 0

3RD READING: 3/21, YEAS: 92; NAYS: 0

RETURNED TO SENATE WITH AMENDMENTS: 3/21

2ND READING: 3/24, BE CONCURRED IN

3RD READING: 3/26, YEAS: 47; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/3/81

ACTION: 4/8, SIGNED

CHAPTER 108

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/6/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

DATE

February 5, 1981

COMMITTEE ON

Judiciary

BILLS NO. SB 240

SB 319
SB 57
SB 316
SB 238

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Ed Reedy Jr.	mt. actor of life	SB 240	
W. H. P. H.	Ind. Ins. AGENTS OF MT.	SB 240	
ROGER MCGLENIN	Supreme Court	SB 319	
Tom Haggard	Am. Council Life Insurers	SB 240	
Lee J. L.	Supreme Court	SB 319	
Byle Manley	OBPP		SB 319
W. T. Haggard	Ind. Ins. AGENTS OF MT.		
David Levens	OBPP		SB 319
Christina D. Levens	OBPP		
Mark G. Haggard			
Thom Haggard			
John E. Haggard			
John E. Haggard			
Walter Haggard			
Stephen Haggard	Ind. Ins. AGENTS OF MT.		
Kay Haggard	Great Falls		
Pat Haggard	Alliance of American Ins.	SB 240	
Raymond Haggard	Hummer Ins. Company	SB 57	

(Please leave prepared statement with Secretary)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 5, 1931

The twentieth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 240:

ESTABLISHING STANDARDS FOR COLLECTON,
USE AND DISCLOSURE OF INFORMATION
GATHERED IN INSURANCE TRANSACTIONS.

Senator Anderson turned the chair over to Vice Chairman O'Hara during the consideration of this bill, and then presented the bill on behalf of the Montana Insurance Department.

Josephine Driscoll, representing the Montana Insurance Department, spoke in support of the bill and suggested that it be changed on page 35, line 25, following "4" by striking "." and inserting "and Title 33, chapter 1, part 7"; and on page 43, by striking lines 3, 4, and 5. She defined the bill as a consumer protection act.

Also speaking in support of the bill were Valencia Lane, of the Montana Insurance Department; Lester Loble, representing the American Council of Life Insurance; and Pat Melby, of the Alliance of American Insurance.

During questioning Valencia Lane stated that the scope of the bill only intended to include personal insurance and not insurance for businesses or commercial transactions.

CONSIDERATION OF SENATE BILL 319:

REQUIRING THE BUDGET DIRECTOR TO
SUBMIT THE JUDICIAL BRANCH BUDGET
WITHOUT CHANGE.

Senator Mazurek carried this bill for Senator Turnage, who had sponsored it at the request of Chief Justice Haswell.

Mike Abley, representing the Montana Supreme Court, said that the bill would eliminate duplicative and an inappropriate and perhaps unconstitutional review of the Court's budget by

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 20, 1981

The thirty-third meeting of the Senate Judiciary Committee was called to order by Jess O'Hara, Vice Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

DISPOSITION OF SENATE BILL 272:

Senator Mazurek moved that the bill be amended according to the attached Committee Report. His motion carried unanimously. He then moved that the bill DO PASS AS AMENDED, and this motion carried unanimously.

DISPOSITION OF SENATE BILL 246:

Senator Mazurek moved to amend the bill as shown on the attached Committee Report, and his motion carried unanimously. Senator Olson moved that the bill DO PASS AS AMENDED, and this motion carried unanimously.

DISPOSITION OF SENATE BILL 253:

Senator Mazurek moved that the bill be amended as shown on the attached Committee Report. His motion carried over Senator Olson's opposition. Senator Berg moved that the bill DO PASS AS AMENDED, and this motion carried with Senator Olson opposing.

DISPOSITION OF SENATE BILL 240:

David Niss outlined the areas of the bill in which he felt there were problems and conflicts. Following discussion on the points he raised, Senator Olson moved that the bill receive a DO PASS AS AMENDED, with David doing the amending. Senator Anderson made a substitute motion that the bill do pass as amended, with David Niss working with Senators Mazurek and Anderson on the amendments. This motion passed unanimously. Senator Berg then moved that this action be reconsidered in order to consider the two amendments presented by the State Insurance Department. His motion passed unanimously. Senator Berg moved adoption of the two amendments, and this motion passed unanimously. Senator Olson then moved that the bill do pass as amended, and his motion passed over Senator Mazurek's objection.

February 20, 1931

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 240

Respectfully report as follows: That SENATE Bill No. 240
be amended as follows:

1. Title, lines 16 through 18.

Following: "PENALTY"

Strike: remainder of title

1a. Page 34, lines 15 and 16.

Following: "Hearings" on line 15

Strike: line 15 through "process" on line 16

2. Page 34, line 24 through line 22 on page 35.

Following: "." on line 24

Strike: line 24, page 34 through "." on line 22, page 35.

3. Page 35, lines 23 through 25.

Following: "by" on line 23

Strike: line 23 through "under" on line 25

Following: "4" on line 25

Insert: "and Title 33, chapter 1, part 7"

DO PASS

4. Page 36, lines 1 through 11.

Strike: subsection (4) in its entirety

continued

February 20, 1931

5. Page 37, line 3.
Following: "findings"
Insert: "and conclusions"

6. Page 37, line 4.
Following: "cause"
Insert: "them"

7. Page 37, lines 5 through 9.
Following: "organization" on line 5
Strike: line 5 through [] on line 9
Insert: "as provided by law"

8. Page 37, line 19.
Following: "violated"
Insert: "in the manner provided by law for service of agency orders"

9. Page 37, line 20 through line 5 on page 38.
Strike: subsection (3) in its entirety

10. Page 38, line 6.
Following: "20."
Strike: "Penalties"
Insert: "Civil penalties"

11. Page 38, line 10.
Following: "a"
Insert: "civil"

12. Page 38, line 18.
Following: "a"
Strike: "fine"
Insert: "civil penalty"

13. Page 38, line 20.
Following: "a"
Strike: "fine"
Insert: "civil penalty"

14. Page 39, line 4 through line 2 on page 41.
Following: "commissioner" on line 4
Strike: line 4 through "state" on line 2, page 41.
Insert: "as provided by 33-1-711"

15. Page 43, lines 3 through 5.
Strike: Section 27 in its entirety
Renumber: subsequent subsection

And, as so amended,
DO PASS

00.

SENATE BILL 240 SENATOR ANDERSON, presenting the bill for SENATOR HAZELBAKER, stated the purpose of Senate Bill 240 is to establish standards for collection, use and disclosure of information gathered in insurance transactions. EXHIBIT 3 was read to the committee by SENATOR ANDERSON.

JOSEPHINE M. DRISCOLL, Montana Insurance Department, was in support of the bill. The Department has had several instances where a group of insurance companies may be writing policies at reduced rates by other companies. Whenever the department learns about this they go to the company, which is fully cooperative. This restricts the companies. A company might go to a person's neighbor, and because of the neighbor's remarks the person might be denied insurance.

LESTER LOBLE, American Council of Life Insurance, supports the bill. It regulates the information that can be relayed.

BOB JAMES, State Farm Insurance, was in favor of the bill. Members of a recent task force also support the bill. JAMES felt this is a pro-consumer bill and urged the committee's support.

There were no further proponents.

There were no opponents.

In closing, SENATOR ANDERSON stated this sets up a mechanism to enable natural persons to ascertain what information is being or has been collected about them. A person may not understand why their doctor has said something to the insurance company. This allows access to the consumer.

REP. TEAGUE asked about page 24, lines 22-23. SENATOR ANDERSON responded the bill addresses insurance support organizations, such as Equafact, which is federally controlled.

REP. HUENNEKENS questioned the striking of material on page 35 if this is a uniform act. VALENCIA LANE, Montana Insurance Department, replied all the amendments were drafted by the legislative council. All language that is stricken is already in the Montana law elsewhere.

REP. KEYSER asked about page 15, line 11 which states "insurance institution or agent may in certain circumstances be disclosed to third parties without authorization". LANE replied that is covered in section 15 beginning on page 28 of the bill. Only certain times insurance companies could provide information. A notice is required which would allow applicants to disclose information as in section 13 of the bill. There are certain situations when the information is not

that critical.

REP. KEEDY asked if personal information as defined on page 10, line 18 included medical records. It was replied the physician maintains such information. Section 10 of the bill provides a person to the right of access. An individual can submit to an insurance agent a request for the information. The insurance company would, therefore, have to report in writing the material or allow the person to view his records and make copies if he wishes. Subsection 3 of the bill allows the insurance company to refer the questions over to a medical professional and not allow the person access to the records. LANE stated the insurance company has the option to supply medical records to the individual or direct the questions to the doctor. A situation this might involve would be if the individual had a disease he was not aware of. It would be more appropriate for the doctor to discuss the records and findings with the individual than for the individual to discover his having a disease while reviewing his own files. The insurance company may not want to have the responsibility of informing the individual, so it will be up to the doctor.

REP. KEEDY stated then it is not always the case to let the individual review his records. LANE replied as a whole they do have the right to the information. SENATOR ANDERSON stated an individual might have a high blood pressure. His doctor might have told him he is in good shape. The insurance company has to accept the person the way he is, and charge him the rate based on his health. This will make it nice for the insurance company to go to the doctor. The consumer will have a method for this information.

REP. KEEDY asked about the wording "the insurance institution or agent is not required to furnish specific items of privileged information if it has a reasonable suspicion, based upon specific information available for review by the commissioner, that the applicant, policyholder, or individual proposed for coverage has engaged in criminal activity, fraud, material misrepresentation, or material nondisclosure". LANE replied that refers to privileged information concerning the anticipation of gathering information about a crime. Something such as arson would not be disclosed. REP. KEEDY asked if there was some potential for abuse. LANE did not think so.

REP. KEEDY asked if it was appropriate to have the information given orally as stated in subsection 4, page 27. LANE replied it gives the insurance company the same privilege as the consumer has. The insurance company can be held responsible for something that is a casual inquiry under any sort.

INSURANCE INFORMATION AND PRIVACY PROTECTION ACT

The purpose of this act is to establish certain standards for the collection, use and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents or insurance-support organizations.

The act applies to life, health, disability, property or casualty insurance.

This act endeavors to maintain a balance between the need for information and fairness in information practices, including the need to minimize intrusiveness.

Establishes a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them and have access to such information for purposes of verifying or disputing its accuracy.

The act limits the disclosure of information collected and enables insurance applicants and policyholders to obtain reasons for any adverse underwriting decisions.

[Handwritten signature]

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

SENATE

BILL 240

Date 3/20/81

SPONSOR Hazelbaker

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
RULES COMMITTEE
April 7, 1981

The Senate Rules Committee met Tuesday, April 7, 1981 in Room 331 of the State Capitol. Senator Stan Stephens, Chairman, called the meeting to order at 4:15 p.m.

ROLL CALL

All members were present.

ACTION TAKEN ON S.B. 240

"ESTABLISHING STANDARDS FOR COLLECTION, USE AND DISCLOSURE OF INFORMATION GATHERED IN INSURANCE TRANSACTIONS".

Senator Hazelbaker explained how the House Judiciary Committee and Representative Keedy inserted an amendment dated March 24, 1981; "The medical professional may review and interpret the information at the request of the affected individual shall disclose all of the information received" which is the exact language contained in H.B. 531, killed on adverse committee report March 12, 1981. He stated that the Insurance Commissioner wants the bill but he would like an expression from the Rules Committee on whether the Keedy amendment jeopardizes the entire bill.

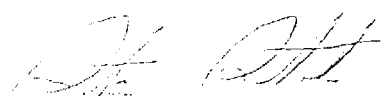
Senator Blaylock moved that the Keedy amendment is improper due to the fact it carries the same language as H.B. 531 which was killed on adverse committee report, and that the bill be referred to a Free Conference Committee. Motion carried.

ACTION TAKEN ON H.B. 718

"TO CREATE THE HARD-ROCK MINING IMPACT BOARD...".

Senator Norman moved that the Rules Committee direct the Chairman of Senate Taxation, Senator Goodover, to appoint a subcommittee to look at H.B. 718. Motion carried.

Meeting adjourned at 4:25 p.m.


Stan Stephens, Chairman

STANDING COMMITTEE REPORT

April 8, 1931

MR. PRESIDENT

We, your committee on RULES

having had under consideration SENATE Bill No. 246

Respectfully report as follows: That SENATE Bill No. 240

Be assigned to a Free Joint Conference Committee.
(Keedy amendment is improper due to the fact it carries the same language as H.B. 531 which was killed on adverse committee report).

DO-PASS